

As Introduced

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H. B. No. 162

Representative Luckie

Cosponsors: Representatives Ujvagi, Healy, Hughes, Stebelton, Domenick

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A B I L L

To amend sections 5747.08 and 5747.98 and to enact 1
section 5747.71 of the Revised Code to allow a 2
refundable credit against the personal income tax 3
for taxpayers who teach in and reside in a big 4
eight school district and to allow an additional 5
credit for such teachers who teach math, science, 6
or technology. 7

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 5747.08 and 5747.98 be amended and 8
section 5747.71 of the Revised Code be enacted to read as follows: 9

Sec. 5747.08. An annual return with respect to the tax 10
imposed by section 5747.02 of the Revised Code and each tax 11
imposed under Chapter 5748. of the Revised Code shall be made by 12
every taxpayer for any taxable year for which the taxpayer is 13
liable for the tax imposed by that section or under that chapter, 14
unless the total credits allowed under divisions (E), (F), and (G) 15
of section 5747.05 of the Revised Code for the year are equal to 16
or exceed the tax imposed by section 5747.02 of the Revised Code, 17
in which case no return shall be required unless the taxpayer is 18
liable for a tax imposed pursuant to Chapter 5748. of the Revised 19

Code.	20
(A) If an individual is deceased, any return or notice required of that individual under this chapter shall be made and filed by that decedent's executor, administrator, or other person charged with the property of that decedent.	21 22 23 24
(B) If an individual is unable to make a return or notice required by this chapter, the return or notice required of that individual shall be made and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual.	25 26 27 28 29 30
(C) Returns or notices required of an estate or a trust shall be made and filed by the fiduciary of the estate or trust.	31 32
(D)(1)(a) Except as otherwise provided in division (D)(1)(b) of this section, any pass-through entity may file a single return on behalf of one or more of the entity's investors other than an investor that is a person subject to the tax imposed under section 5733.06 of the Revised Code. The single return shall set forth the name, address, and social security number or other identifying number of each of those pass-through entity investors and shall indicate the distributive share of each of those pass-through entity investor's income taxable in this state in accordance with sections 5747.20 to 5747.231 of the Revised Code. Such pass-through entity investors for whom the pass-through entity elects to file a single return are not entitled to the exemption or credit provided for by sections 5747.02 and 5747.022 of the Revised Code; shall calculate the tax before business credits at the highest rate of tax set forth in section 5747.02 of the Revised Code for the taxable year for which the return is filed; and are entitled to only their distributive share of the business credits as defined in division (D)(2) of this section. A single check drawn by the pass-through entity shall accompany the return	33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51

in full payment of the tax due, as shown on the single return, for 52
such investors, other than investors who are persons subject to 53
the tax imposed under section 5733.06 of the Revised Code. 54

(b)(i) A pass-through entity shall not include in such a 55
single return any investor that is a trust to the extent that any 56
direct or indirect current, future, or contingent beneficiary of 57
the trust is a person subject to the tax imposed under section 58
5733.06 of the Revised Code. 59

(ii) A pass-through entity shall not include in such a single 60
return any investor that is itself a pass-through entity to the 61
extent that any direct or indirect investor in the second 62
pass-through entity is a person subject to the tax imposed under 63
section 5733.06 of the Revised Code. 64

(c) Nothing in division (D) of this section precludes the tax 65
commissioner from requiring such investors to file the return and 66
make the payment of taxes and related interest, penalty, and 67
interest penalty required by this section or section 5747.02, 68
5747.09, or 5747.15 of the Revised Code. Nothing in division (D) 69
of this section shall be construed to provide to such an investor 70
or pass-through entity any additional deduction or credit, other 71
than the credit provided by division (J) of this section, solely 72
on account of the entity's filing a return in accordance with this 73
section. Such a pass-through entity also shall make the filing and 74
payment of estimated taxes on behalf of the pass-through entity 75
investors other than an investor that is a person subject to the 76
tax imposed under section 5733.06 of the Revised Code. 77

(2) For the purposes of this section, "business credits" 78
means the credits listed in section 5747.98 of the Revised Code 79
excluding the following credits: 80

(a) The retirement credit under division (B) of section 81
5747.055 of the Revised Code; 82

(b) The senior citizen credit under division (C) of section 5747.05 of the Revised Code;	83 84
(c) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code;	85 86
(d) The dependent care credit under section 5747.054 of the Revised Code;	87 88
(e) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;	89 90
(f) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;	91 92
(g) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;	93 94
(h) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	95 96
(i) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	97 98
(j) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	99 100
(k) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	101 102
(l) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	103 104
(m) The low-income credit under section 5747.056 of the Revised Code;	105 106
<u>(n) The big eight school district teacher credits under section 5747.71 of the Revised Code.</u>	107 108
(3) The election provided for under division (D) of this section applies only to the taxable year for which the election is made by the pass-through entity. Unless the tax commissioner	109 110 111

provides otherwise, this election, once made, is binding and 112
irrevocable for the taxable year for which the election is made. 113
Nothing in this division shall be construed to provide for any 114
deduction or credit that would not be allowable if a nonresident 115
pass-through entity investor were to file an annual return. 116

(4) If a pass-through entity makes the election provided for 117
under division (D) of this section, the pass-through entity shall 118
be liable for any additional taxes, interest, interest penalty, or 119
penalties imposed by this chapter if the tax commissioner finds 120
that the single return does not reflect the correct tax due by the 121
pass-through entity investors covered by that return. Nothing in 122
this division shall be construed to limit or alter the liability, 123
if any, imposed on pass-through entity investors for unpaid or 124
underpaid taxes, interest, interest penalty, or penalties as a 125
result of the pass-through entity's making the election provided 126
for under division (D) of this section. For the purposes of 127
division (D) of this section, "correct tax due" means the tax that 128
would have been paid by the pass-through entity had the single 129
return been filed in a manner reflecting the tax commissioner's 130
findings. Nothing in division (D) of this section shall be 131
construed to make or hold a pass-through entity liable for tax 132
attributable to a pass-through entity investor's income from a 133
source other than the pass-through entity electing to file the 134
single return. 135

(E) If a husband and wife file a joint federal income tax 136
return for a taxable year, they shall file a joint return under 137
this section for that taxable year, and their liabilities are 138
joint and several, but, if the federal income tax liability of 139
either spouse is determined on a separate federal income tax 140
return, they shall file separate returns under this section. 141

If either spouse is not required to file a federal income tax 142
return and either or both are required to file a return pursuant 143

to this chapter, they may elect to file separate or joint returns, 144
and, pursuant to that election, their liabilities are separate or 145
joint and several. If a husband and wife file separate returns 146
pursuant to this chapter, each must claim the taxpayer's own 147
exemption, but not both, as authorized under section 5747.02 of 148
the Revised Code on the taxpayer's own return. 149

(F) Each return or notice required to be filed under this 150
section shall contain the signature of the taxpayer or the 151
taxpayer's duly authorized agent and of the person who prepared 152
the return for the taxpayer, and shall include the taxpayer's 153
social security number. Each return shall be verified by a 154
declaration under the penalties of perjury. The tax commissioner 155
shall prescribe the form that the signature and declaration shall 156
take. 157

(G) Each return or notice required to be filed under this 158
section shall be made and filed as required by section 5747.04 of 159
the Revised Code, on or before the fifteenth day of April of each 160
year, on forms that the tax commissioner shall prescribe, together 161
with remittance made payable to the treasurer of state in the 162
combined amount of the state and all school district income taxes 163
shown to be due on the form, unless the combined amount shown to 164
be due is one dollar or less, in which case that amount need not 165
be remitted. 166

Upon good cause shown, the tax commissioner may extend the 167
period for filing any notice or return required to be filed under 168
this section and may adopt rules relating to extensions. If the 169
extension results in an extension of time for the payment of any 170
state or school district income tax liability with respect to 171
which the return is filed, the taxpayer shall pay at the time the 172
tax liability is paid an amount of interest computed at the rate 173
per annum prescribed by section 5703.47 of the Revised Code on 174
that liability from the time that payment is due without extension 175

to the time of actual payment. Except as provided in section 176
5747.132 of the Revised Code, in addition to all other interest 177
charges and penalties, all taxes imposed under this chapter or 178
Chapter 5748. of the Revised Code and remaining unpaid after they 179
become due, except combined amounts due of one dollar or less, 180
bear interest at the rate per annum prescribed by section 5703.47 181
of the Revised Code until paid or until the day an assessment is 182
issued under section 5747.13 of the Revised Code, whichever occurs 183
first. 184

If the tax commissioner considers it necessary in order to 185
ensure the payment of the tax imposed by section 5747.02 of the 186
Revised Code or any tax imposed under Chapter 5748. of the Revised 187
Code, the tax commissioner may require returns and payments to be 188
made otherwise than as provided in this section. 189

To the extent that any provision in this division conflicts 190
with any provision in section 5747.026 of the Revised Code, the 191
provision in that section prevails. 192

(H) If any report, claim, statement, or other document 193
required to be filed, or any payment required to be made, within a 194
prescribed period or on or before a prescribed date under this 195
chapter is delivered after that period or that date by United 196
States mail to the agency, officer, or office with which the 197
report, claim, statement, or other document is required to be 198
filed, or to which the payment is required to be made, the date of 199
the postmark stamped on the cover in which the report, claim, 200
statement, or other document, or payment is mailed shall be deemed 201
to be the date of delivery or the date of payment. 202

If a payment is required to be made by electronic funds 203
transfer pursuant to section 5747.072 of the Revised Code, the 204
payment is considered to be made when the payment is received by 205
the treasurer of state or credited to an account designated by the 206
treasurer of state for the receipt of tax payments. 207

"The date of the postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the United States postal service.

(I) The amounts withheld by the employer pursuant to section 5747.06 of the Revised Code shall be allowed to the recipient of the compensation as credits against payment of the appropriate taxes imposed on the recipient by section 5747.02 and under Chapter 5748. of the Revised Code.

(J) If, in accordance with division (D) of this section, a pass-through entity elects to file a single return and if any investor is required to file the return and make the payment of taxes required by this chapter on account of the investor's other income that is not included in a single return filed by a pass-through entity, the investor is entitled to a refundable credit equal to the investor's proportionate share of the tax paid by the pass-through entity on behalf of the investor. The investor shall claim the credit for the investor's taxable year in which or with which ends the taxable year of the pass-through entity. Nothing in this chapter shall be construed to allow any credit provided in this chapter to be claimed more than once. For the purposes of computing any interest, penalty, or interest penalty, the investor shall be deemed to have paid the refundable credit provided by this division on the day that the pass-through entity paid the estimated tax or the tax giving rise to the credit.

Sec. 5747.71. As used in this section, "big eight school district" has the same meaning as in section 3314.02 of the Revised Code.

(A) A refundable credit is allowed against the tax imposed by section 5747.02 of the Revised Code for a taxpayer who, for the entire period that school is open for instruction and that ends in the taxable year, excluding summer school, is employed as a

teacher by a big eight school district and resides in the same 239
district. 240

(B) An additional refundable credit is allowed against the 241
tax imposed by section 5747.02 of the Revised Code for a taxpayer 242
who qualifies for the credit allowed under division (A) of this 243
section and who is employed to teach mathematics, science, or 244
technology for that entire period. 245

(C) The amount of each credit is equal to one-half of one per 246
cent of the taxpayer's Ohio adjusted gross income. In the case of 247
a joint return, the amount of each credit is equal to one-half of 248
one per cent of the taxpayer's adjusted gross income as if the 249
taxpayer had filed an individual return. 250

The credits shall be claimed in the order required under 251
section 5747.98 of the Revised Code. If the amount of the credit 252
exceeds the amount of tax otherwise due under section 5747.02 of 253
the Revised Code after deduction of all other credits in that 254
order, the taxpayer is entitled to a refund of the excess. 255

Sec. 5747.98. (A) To provide a uniform procedure for 256
calculating the amount of tax due under section 5747.02 of the 257
Revised Code, a taxpayer shall claim any credits to which the 258
taxpayer is entitled in the following order: 259

(1) The retirement income credit under division (B) of 260
section 5747.055 of the Revised Code; 261

(2) The senior citizen credit under division (C) of section 262
5747.05 of the Revised Code; 263

(3) The lump sum distribution credit under division (D) of 264
section 5747.05 of the Revised Code; 265

(4) The dependent care credit under section 5747.054 of the 266
Revised Code; 267

(5) The lump sum retirement income credit under division (C) 268

of section 5747.055 of the Revised Code;	269
(6) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;	270 271
(7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;	272 273
(8) The low-income credit under section 5747.056 of the Revised Code;	274 275
(9) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	276 277
(10) The campaign contribution credit under section 5747.29 of the Revised Code;	278 279
(11) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	280 281
(12) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	282 283
(13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	284 285
(14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	286 287
(15) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code;	288 289
(16) The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;	290 291
(17) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	292 293
(18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	294 295
(19) The job retention credit under division (B) of section 5747.058 of the Revised Code;	296 297

(20) The credit for purchases of new manufacturing machinery and equipment under section 5747.26 or section 5747.261 of the Revised Code;	298 299 300
(21) The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code;	301 302 303
(22) The job training credit under section 5747.39 of the Revised Code;	304 305
(23) The enterprise zone credit under section 5709.66 of the Revised Code;	306 307
(24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	308 309
(25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	310 311
(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;	312 313
(27) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	314 315
(28) The export sales credit under section 5747.057 of the Revised Code;	316 317
(29) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;	318 319
(30) The enterprise zone credits under section 5709.65 of the Revised Code;	320 321
(31) The research and development credit under section 5747.331 of the Revised Code;	322 323
(32) The refundable jobs creation credit under division (A) of section 5747.058 of the Revised Code;	324 325
(33) The refundable credit for taxes paid by a qualifying	326

entity granted under section 5747.059 of the Revised Code;	327
(34) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code;	328 329 330
(35) The refundable credit for tax withheld under division (B)(1) of section 5747.062 of the Revised Code;	331 332
(36) The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;	333 334 335
<u>(37) The refundable big eight school district teacher credits under section 5747.71 of the Revised Code.</u>	336 337
(B) For any credit, except the credits enumerated in divisions (A)(32) to (36) (37) of this section and the credit granted under division (I) of section 5747.08 of the Revised Code, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.	338 339 340 341 342 343 344 345 346 347
Section 2. That existing sections 5747.08 and 5747.98 of the Revised Code are hereby repealed.	348 349
Section 3. The amendment or enactment by this act of sections 5747.08, 5747.71, and 5747.98 of the Revised Code apply to taxable years beginning on or after January 1, 2007.	350 351 352